



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

LOCHT et al

Atty. Ref.: 960-25; Confirmation No. 5876

Appl. No. 08/765,287

TC/A.U. 1645

Filed: September 12, 1997

Examiner: Shahnan Shah, K.

For: RECOMBINANT PROTEINS OF FILAMENTOUS HAEMAGGLUTININ OF
BORDETELLA, PARTICULARLY BORDETELLA PERTUSSIS, METHOD FOR
PRODUCING SAME, AND USES THEREOF FOR PRODUCING FOREIGN PROTEINS
OR VACCINATING ACTIVE PRINCIPLES

* * * * *

January 10, 2005

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**STATEMENT ACCOMPANYING PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Petitions Attorney, Derek L. Woods, advised the undersigned during a telephone discussion on January 7, 2005 that a Notice of Improper Request for Continued Examination (RCE) has been prepared and will issue shortly in connection with the above. As the undersigned understands it, the Patent Office has taken the view that the above application is abandoned in view of the filing on March 26, 2001 of an RCE - as this case is a 371 of PCT/FR95/00512, filed April 19, 1995, an RCE was not appropriate.

The undersigned understands from recent discussions with Mr. Woods, including the discussion on January 7, 2005, that the application can be revived by the filing of a Petition for

LOCHT et al
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Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), payment of the required fee (\$1500) and, because this application is a 371 of a PCT filed prior to June 8, 1995, submission of a Terminal Disclaimer. Based on the above-described understanding on the part of the undersigned of the status of this application, those requirements are submitted herewith. As the undersigned further understands it from Mr. Woods, the Patent Office will treat the entirety of the prosecution since the filing of the RCE on March 26, 2001, as constituting the "reply" required under 37 CFR 1.137(b)(1).

It is requested that the attached Petition be granted.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: Mary J. Wilson
Mary J. Wilson
Reg. No. 32,955

MJW:tat
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Atty Dkt. 960-25

C# M#

LOCHT et al

TC/A.U.

1645

Serial No. 08/765,287

Examiner: Shahnaz Shah, K.

Filed: September 12, 1997

Date: January 10, 2005

Title: RECOMBINANT PROTEINS OF FILAMENTOUS HAEMAGGLUTININ OF
BORDETELLA, PARTICULARLY BORDETELLA PERTUSSIS, METHOD FOR
PRODUCING SAME, AND USES THEREOF FOR PRODUCING FOREIGN
PROTEINS OR VACCINATING ACTIVE PRINCIPLES

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(B)

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment 0 minus highest number
previously paid for 20 (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment 0 minus highest number
previously paid for 3 (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add
\$360.00 (1051)/\$180.00 (2051) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s) One Month Extension \$120.00 (1251)/\$60.00 (2251)

Two Month Extensions \$450.00 (1252)/\$225.00 (2252)

Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)

Four Month Extensions \$1590.00 (1254)/\$795.00 (2254) \$

Terminal disclaimer enclosed, add \$130.00 (1814)/ \$65.00 (2814) \$ 130.00

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$

Assignment Recording Fee \$40.00 (8021) \$

Other: Petition Fee \$ 1,500

TOTAL FEE ENCLOSED \$ 1630.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.

By Atty: Mary J. Wilson, Reg. No. 32,955

Signature: Mary J. Wilson

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

960-25

First named inventor: CAMILLE LOCHT

Application No.: 08/765,287

Art Unit: 1645

Filed: September 12, 1997

Examiner: Shahnan Shah, K.S.

Title: RECOMBINANT PROTEINS OF FILAMENTOUS HAEMAGGLUTININ OF BORDETELLA, PARTICULARLY BORDETELLA
PERTUSSIS, METHOD FOR PRODUCING SAME, AND USES THEREOF FOR PRODUCING FOREIGN PROTEINS OF
VACCINATING PRINCIPLES

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☒ has been filed previously on March 26, 2001 to present
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

- ☒ has been paid previously on November 30, 2004
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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01 FC:1453

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☒ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ 130.00 for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Mary J. Wilson
Signature

January 10, 2005
Date

Mary J. Wilson
Typed or printed name

32,955
Registration Number, if applicable

NIXON & VANDERHYE P.C.
Address

(703) 816-4011
Telephone Number

1100 North Glebe Road, 8th Floor, Arlington, VA 22201-4714
Address

Enclosures: ☒ Fee Payment☐ Reply☒ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

Date

Signature

Typed or printed name of person signing certificate